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Plaintiff, appearing Pro Se

UNITED STATES DISTRICT COURT

DISTRICT OF OREGON

EUGENE DIVISION

**PRESTON BERMAN**, on behalf of themselves  
and a class of those similarly situated,

Plaintiffs,

v.

**OREGON; OREGON STATE HOSPITAL;**  
**SARA WALKER**, in her official capacity as  
interim superintendent of the Oregon State Hospital;  
**SEJAL HATHI**, in her official capacity as Director  
of the Oregon Health Authority,

Defendants.

Case No:

6:24-CV-1968-MK

MOTION FOR APPOINTMENT OF  
COUNSEL

I, Preston Jacob Berman, the petitioner in the above-captioned case, respectfully move this Court to appoint counsel to assist me in this case, pursuant to 28 U.S.C. § 1915(e)(1) and 18 U.S.C. § 3006A(a)(2)(B), based on the following grounds:

**1. Limitations of Self-Representation**

In a previous case, I submitted a similar request for counsel, which was denied.

However, the nature and scope of this case create a compelling need for appointed

representation. The legal issues presented here are complex, encompassing constitutional rights under the ADA and Due Process Clause, with broader implications for a large class of individuals similarly situated at Oregon State Hospital (OSH). I have limited legal knowledge and resources, which significantly restrict my ability to effectively argue these complex claims in person and conduct necessary procedures for class action litigation. Without counsel, I risk failing to protect the rights and interests of myself and those similarly situated PSRB clients.

## **2. Confinement-Related Barriers**

My confinement at OSH imposes considerable restrictions on my access to resources and technology essential for maintaining and presenting this case. Regular COVID-19 and flu-related lockdowns limit my computer access, sometimes for extended periods, preventing timely document review, docket checks, and legal research. Additionally, OSH does not permit computers in patient rooms, and our access to on-unit computers is restricted, making it difficult to keep pace with the demands of litigation.

Due to my confinement at Oregon State Hospital (OSH), I have been denied access to the CM/ECF electronic filing system in the past. This restriction requires me to rely on standard mail to submit filings and receive court documents, significantly delaying the process. In a time-sensitive case involving urgent rights and protections under federal law, such delays undermine my ability to participate fully and promptly. Appointment of counsel would enable timely electronic filings, ensuring efficient handling of this case on behalf of myself and similarly situated PSRB clients.

### **3. Challenges in Representing a Class**

This case is not only a personal action but a class action on behalf of approximately 300 PSRB clients at OSH, similarly situated to myself. The class action status requires a legal strategy and procedural adherence that goes beyond my abilities as a self-represented litigant. Qualified counsel is necessary to ensure that the claims of all affected individuals are adequately represented and that the case proceeds in alignment with the court's procedural standards for class actions.

### **4. Inability to Attend Hearings and Meet Court Requirements**

As an OSH resident, my ability to physically attend hearings and comply with procedural requirements is severely restricted. I am unable to fully participate in hearings or meet court deadlines without consistent access to resources, and without counsel, I lack the support necessary to manage these obligations effectively. Appointing counsel would address these barriers, ensuring my claims and those of similarly situated individuals are properly heard and adjudicated.

### **5. Exceptional Circumstances Requiring Counsel**

The complexity of the legal issues, combined with the class action status, creates exceptional circumstances warranting the appointment of counsel. This case involves the interpretation and enforcement of the ADA and Due Process protections, which require specific legal expertise to address the rights of individuals with disabilities in institutional settings. Appointing counsel will ensure that the case is judged on its merits, not hindered by my limitations as a self-represented litigant.

**Relief Requested**

For the foregoing reasons, I respectfully request that this Court consider the need for appointed counsel in light of the class action scope, the unique barriers I face, and the complexity of the legal issues involved. Appointing counsel will enable a fair and adequate representation of the class and ensure that both the ADA and Due Process claims are fully and accurately presented.

DATED: October 31, 2024.

Respectfully submitted,

s/ Preston Berman

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